



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,254	03/17/2000	Glen John Anderson	1206	4416

24333 7590 02/09/2005

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY, SD 57049

EXAMINER

SAX, STEVEN PAUL

ART UNIT PAPER NUMBER

2174

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/528,254

Applicant(s)

ANDERSON ET AL.

Examiner

Steven P Sax

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11,19,20,23,24,29,30 and 32-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11,19,20,23,24,29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-5,7,32 and 35-47 is/are rejected.
- 7) ☒ Claim(s) 6,33 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application has been examined. The amendment filed 9/10/04 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7, 32, 35, 44-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Kamiya et al (6629242).

4. Regarding claim 1, Kamiya et al show the information system under affective control (column 2 lines 30-40), including: an application program with which the user is actively engaged (column 2 lines 13-30), means for determining the apparent affective state of the user (column 2 lines 40-57, column 6 lines 5-20), means for changing the output of the application program responsive to the apparent affective state of the user (column 8 lines 47-60).

5. Regarding claim 2, the means for determining apparent affective state includes a means responsive to the user's facial expressions (column 8 lines 35-40).

6. Regarding claim 3, the application program has user input (column 6 lines 8-15, column 8 lines 5-27 for example).

7. Regarding claim 4, the means for determining apparent affective state includes a means responsive to the content of the user input (column 6 lines 8-15).

8. Regarding claim 5, the user input is text (column 6 lines 12-14 – contents of a conversation).

9. Regarding claim 7, the application program is for transmission of text from the user to others (column 6 lines 12-15 - the conversation of the user, column 12 lines 20-36).

10. Regarding claim 32, the means for determining the apparent affective state of the user includes a manual input device measuring the degree of force applied by the user (column 5 lines 30-67, column 6 lines 1-8). The operation of the program changes accordingly (column 12 lines 27-37).

Art Unit: 2174

11. Regarding claim 35, the program analyzes aspects of speech of the user (column 6 lines 8-15 and lines 64-67).

12. Regarding claim 44, the system analyzes facial expressions of the user (column 8 lines 35-40).

13. Regarding claim 45, facial expressions are analyzed using a video camera (column 4 lines 17-27).

14. Regarding claim 46, the system analyzes gestures of the user (column 8 lines 20-30).

15. Regarding claim 47, the system detects marking by the user of text entered (column 7 lines 29-40, the marking of the vocal text by the expression).

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya et al (6629242) and St.John (6463415).

18. Regarding claim 36-38, Kamiya et al mention analyzing aspects of speech to determine apparent affective state of the user, but do not go into the details of analyzing timing of utterance of voice, quality of voice, or utterance pitch contour of voice. Furthermore, St. John does show analyzing timing of utterance of voice (column 11 lines 50-65, column 12 lines 34-44), quality of voice (column 8 lines 50-65, column 12 lines 25-33), and utterance pitch contour of voice (column 11 lines 20-37, column 14 lines 47-62) to determine apparent affective state of the user. It would have been obvious to a person with ordinary skill in the art to use these specific techniques in Kamiya et al, because they would provide convenient techniques with which to analyze speech to determine apparent affective state of a user.

19. Claims 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya et al (6629242) and Amir et al (6539100).

20. Regarding claim 39, Kamiya et al do not specifically go into the details of measuring autonomic responses of the user, but do mention effective measuring of user characteristics to identify the user (column 6 lines 13-14 Kamiya et al). Furthermore, Amir et al do measure autonomic responses of the user to identify the user (column 7 lines 4-15, column 8 lines 30-43). It would have been obvious to a person with ordinary skill in the art to have this in Kamiya et al, because it would be an effective way of measuring user characteristics to identify a user.

21. Regarding claim 40, the measuring of autonomic responses of the user in Amir et al include measuring skin characteristics to identify a user (column 8 lines 30-43 Amir et al). The obviousness to combine this into Kamiya et al is thus the same as mentioned in paragraph 20 of this Office Action.

22. Regarding claim 41-43, the measuring of autonomic responses of the user in Amir et al include measuring eye characteristics (Amir et al column 6 lines 55-67), including dilation of the eye (Amir et al column 7 lines 1-9) and blink rate (Amir et al column 8 lines 45-50) to identify a user. The obviousness to combine this into Kamiya et al is thus the same as mentioned in paragraph 20 of this Office Action.

23. Claims 6 and 33-34 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 6 brings out that the changing of operation comprises changing the appearance of the text input by the user if the apparent affective state of the user indicates that the text output by the program should be marked. The features combined as brought out in this claim are not set forth in the prior art of record. Claims 33-34 specifically bring out that the degree of force measured is that applied by a user to a keyboard or mouse button. This directs away from the pressure detector sensor in Kamiya et al which is not also an input device for entering other information, but rather only a device to measure the pressure purposely

applied to it. The ability to measure the degree of force applied to the manual input device to determine the state of the user (for marking/changing of that user input accordingly) combined with the other features as brought out in these claims, are not set forth in the prior art of record.

24. Claims 9-11, 19-20, 29-30 are allowable over the prior art of record. These claims bring out that the changing of operation comprises changing the appearance of the text input by the user if the apparent affective state of the user indicates that the text output by the program should be marked. The features combined as brought out in these claims are not set forth in the prior art of record.

25. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


Art Unit: 2174

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P Sax whose telephone number is (571) 272-4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


STEVEN P. SAX
PATENT EXAMINER
